

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
)  
Revision of the Commission's Rules ) CC Docket No. 94-102  
To Ensure Compatibility with ) RM-8143  
Enhanced 911 Emergency Calling Systems )

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Opposition of the Ad Hoc Alliance for 911  
to the Petitions for Reconsideration

Petitions for reconsideration of the Report and Order (R&O) in the above-captioned proceeding were filed by CMRS industry associations, CMRS carriers, Wireless Equipment Manufacturers and the United States Coast Guard. These petitions, by and large, are simply a rehash of the same arguments made earlier by these petitioners in this proceeding and no showing is made that the Commission failed to consider the evidence or abused its discretion in reaching its decision — which it did not. Indeed, the Commission has carefully developed a full and complete record in this proceeding. All of the petitioners have been given an ample and fair opportunity to submit comments and evidence which they wished the Commission to consider. The Commission's well reasoned and carefully crafted R&O is unquestionably fair and equitable and clearly in the public interest. It is obvious that these petitions are simply a delaying tactic of the wireless industry. It is time for the wireless industry to stop wasting the resources of the Commission and others with

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arguments which have been considered and decided. Therefore, the Ad Hoc Alliance for 911 (“Alliance”) respectfully requests that the Commission deny these petitions.

In the event the Commission decides to reconsider its R&O, the Alliance respectfully submits the following comments:

The arguments in the petitions for reconsideration raise no new substantive issues. Some petitioners complain that the decision must be based on the wishes of the majority of participating parties. Thus, in order to reach a decision, the Commission need simply count the number of commentators for and against any proposition. Using this absurd proposition, it can be argued that the Alliance represents 260 million consumers and the wireline industry represents approximately 1,581 cellular systems. Therefore, the Alliance should prevail on all issues since it represents a larger number of people.

Ameritech provided an example of a caller who originates a call in Illinois, is still talking when he drives to Wisconsin, sees an accident, puts the first call on hold and dials 911. Ameritech then states that the 911 call would go back to the point in Illinois where the call on hold originated. This example is incorrect. The call would go to the nearest base station.

CTIA repeated the arguments already considered by the Commission in this proceeding. It also argued that the new rules “will prevent wireless carriers from providing 911 enhancements to Public Safety Answering Points.”<sup>1</sup> CTIA never proposed to give such enhancements to anyone but their subscribers and the Commission’s requirement that they not block emergency calls from non-

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<sup>1</sup> CTIA petition, page 2.

subscribers does not mean that they cannot give the 911 enhancements to their subscribers. CTIA argues, however, that the Commission requirement that wireless carriers process all 911 calls without precondition means that they cannot use the subscriber information available to them to send that information to the PSAP. As SBMS points out, the Commission concluded that a 911 call should not be subject to any carrier processes which “could result in a delay in the delivery of a 911 call to a PSAP”.<sup>2</sup> This is the Alliance’s understanding of the new rules.

Nextel says that handling emergency calls from iDEN phones without any code identification would be expensive.<sup>3</sup> The time to make that showing has come and passed. The Alliance contends to the contrary that there would be little expense involved in meeting Nextel’s public service obligations to process all 911 calls. The manufacturers of handsets could easily insert a unique IMSI, for temporary access for 911 calls only, into all handsets they build. The switch could be set to accept this unique special IMSI only for this purpose. The probability of a 911 call from non-subscribers is so small that they should not object to the minor costs involved.

Nextel next says that “users who do not arrange for service should have no expectation of its being available.”<sup>4</sup> It is the **public** that expects 911 service to be available wherever possible, whenever there is an emergency and it is the **public’s** airwaves that Nextel is using for *free*!

The sad fact is that it is now clear the wireless industry has simply contrived reasons why it cannot comply with the clear and obvious public interest requirements to provide the most

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<sup>2</sup> SBMS petition, page 4, citing R&O, para. 33.

<sup>3</sup> Nextel petition, page 4.

<sup>4</sup> Nextel petition, page 5.

information possible to PSAPs . An example is CTIA's mention of a hoax 911 repeated call that was continually placed throughout the day.<sup>5</sup> Why did the cellular carrier not act to lock out that call using the ESN and endeavor to locate the calling party through triangulation?

CTIA also argues that there is nothing in the record which indicates that there is a problem with cellular carriers not providing 911 service to *its* customers.<sup>6</sup> Besides being untrue,<sup>7</sup> this argument is beside the point. The evidence was clear and undisputed that many cellular carriers block emergency calls from non-subscribers and roamers whose carriers do not have roaming agreements. This is simply outrageous and unacceptable conduct by an industry that has the benefit of billions of dollars of the public's spectrum at no charge.

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<sup>5</sup> Ameritech gives the same sort of hypothetical example of the 'redial' button on a cell phone being used to lock up the 911 system for long periods of time. Ameritech petition, page 8.

<sup>6</sup> CTIA petition, page 4.

<sup>7</sup> The Alliance's study in Los Angeles dramatically demonstrated numerous "holes" in the service areas of both cellular carriers when viewed from the perspective of users of portable cell phones. To a user of hand held cell phones, these service areas look like pieces of Swiss cheese. The Los Angeles study was followed up by studies conducted by the Alliance in Dallas and Atlanta which confirmed these findings. These studies have been confirmed by recent news reports which show that portable users *do not receive reliable service* from their carriers. (See attachments to Alliance comments in the FNPRM). An example of an emergency situation in which a cellular subscriber was shot in the face while unsuccessfully trying to complete a 911 call over a portable cell phone in Los Angeles was part of an ex parte presentation made by the Alliance in these proceedings. This subscriber could not complete an emergency call because she was in a "hole" in coverage from her carrier. As the Commission noted in 1995, "Currently, however, about half of new service is for portable (hand-held) cellular telephones. [fn] One of the major industry trends has been towards lower cost and lighter weight hand-held cellular telephones." Paragraph 21, 78 Rad. Reg. 2d (P&F) 1322. The uncontroverted evidence in the record is that there is a real and immediate "actual problem with respect to wireless carriers' provision of 911 service to their subscribers" and the CTIA assertion to the contrary is simply false.

Finally, CTIA makes the argument that the requirement that they connect all emergency calls turns them into an “unlicensed service”. Despite CTIA’s claim to the contrary, the carrier has complete operational control over all mobile stations that communicate with its base stations. The non-MIN handset is always under the control of the Mobile Telephone Switching Office (MTSO). Such a handset has been type accepted and must conform to the applicable standards. A non-MIN handset can be assigned to a voice channel and be power controlled and follow hand-off orders, audit orders, maintenance orders, disconnect orders and all other MTSO orders as required by the FCC standards. CTIA’s contention is just another unfortunate example of a misleading argument.

Perhaps the most banal argument is that made by Ameritech who says that 911 calls, that are not emergencies, could be fraudulently patched by the 911 operator to a third party.<sup>8</sup> Ameritech’s preoccupation with profits is clearly its only concern and the public interest is not a factor in its thinking.

***PROMPT, UNCONDITIONAL CONNECTION OF ALL 911 EMERGENCY CALLS IS UNQUESTIONABLY REQUIRED BY THE PUBLIC INTEREST.***

In spite of the clear and obvious public interest requirement for prompt, unconditional transmission of all emergency 911 calls, some members of the wireless industry continue to concoct reasons why they cannot comply with the Commission’s orders. Many of the provisions about which the petitioners now complain were developed in response to earlier comments and objections from the same petitioners. For example, some of the petitioners objected to the proposed requirement that they be required to provide information to PSAPs which were not equipped to

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<sup>8</sup> Ameritech petition, page 8.

receive, or did not want, such data. The Commission achieved a reasonable balance in the R&O to meet these objections by allowing the carrier to not transmit calls to certain PSAPs for the first year after the effective date of the R&O . These same commentators now complain that it is unreasonable (or in their favorite words, “not possible”) for them to be required to distinguish between the PSAPs who can use and do want the information from those that do not. If the Commission is inclined to amend its R&O in this respect, then the Alliance submits that it should simply require all CMRS carriers to transmit *all* 911 calls to the PSAP which is nearest the base station which received the call.<sup>9</sup> If the PSAP refuses to accept the call, which we seriously doubt will be the case, then the matter can be taken up with the appropriate legislative and state agencies.

Furthermore, the wireless industry makes the illogical and untenable argument that the PSAP ability to call back the 911 caller is *more important* than getting the emergency call to the PSAP in the first place. The PSAP representatives have never taken, and could not in good conscious take, such an absurd position. Furthermore, it has now been demonstrated by the Alliance that call back can be achieved in almost all situations by using the substitute number technique already employed in the wireless industry.<sup>10</sup> There are probably other alternatives which an industry, which recognized its public interest obligations, would propose instead of the imperious reply of many in the wireless industry — “*not possible*”.

The most offensive argument of all is that CMRS carriers should be able to block emergency

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<sup>9</sup> This is the position of Omnipoint. See page 4 where Omnipoint states that the Commission should require carriers “to use best efforts to forward all 911 calls to the designated PSAP, whether or not the call transmits a valid Code Identification.” The Alliance agrees with this position.

<sup>10</sup> See Appendix D to the Comments filed by the Alliance in the FNPRM.

calls from parties who do not pay at least \$14.95 per month to that carrier for service. This assertion from an industry which has received the free use of billions of dollars of the public's airwaves, which had services revenues of \$14 billion in 1994, which has grown fifty percent each year, and is estimated to serve 54 million customers by the year 2000, is unconscionable.<sup>11</sup> Especially, since 97% of the beneficiaries of these 911 emergency calls are not the calling party but the public at large.<sup>12</sup> For carriers to argue that they might lose customers who would purchase cellular service simply to reach the nation's 911 emergency service and this loss of potential customers "would drive up the price of service for legitimate customers" is appalling.<sup>13</sup> Surely there is no vested right to profit from the 911 system set up and paid for by the public.

The Commission has properly found that it is not appropriate to assess the cost of the emergency call on the good Samaritan and has provided for cost recovery through agreement with the PSAP and state and local governments. This is a fair and appropriate solution. It is respectfully submitted that the incremental cost of handling 911 calls is de minimus — far less than the amount the CMRS carriers wish to arbitrarily charge the good Samaritan for the privilege of being a good citizen.<sup>14</sup> It is an outrage for members of the wireless industry to argue that they are entitled to abuse

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<sup>11</sup> In the Matter of Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, FCC 95-317, para. 13, 78 Rad. Reg. 2d (P&F) 1322. (August 18, 1995).

<sup>12</sup> See R&O, para. 129.

<sup>13</sup> Ameritech petition, page 10. Note the argument on page 11 that the Commission's rules will expose Ameritech to litigation from injured parties. Such liability cannot be limited by contracts with the subscriber. This is just another fatuous argument.

<sup>14</sup> PCIA makes the inane argument that customers should be given some "monetary assistance" to make such good Samaritan calls. PCIA petition, page 8. The public is not as

their stewardship of the public's airwaves by refusing to permit humanitarian use of those airwaves by the public in emergency situations. What the petitioners are really saying is that they cannot sustain the outrageous charges to the public for 911 service, which they are presently collecting, in any good faith negotiations with the public service agencies.

***CMRS PROVIDERS SHOULD CLEARLY BE REQUIRED TO SUPPLY CALL BACK INFORMATION TO PSAPs FOR ALL 911 CALLS.***

BellSouth says that “it is **not possible** to generate a unique call back number until the handset is service-initialized.” This is false. It is possible for the handset manufacturer to install a non-null MIN at the time of manufacture which creates a unique call back number which does not have to be a dialable number. CTIA says that it is **not possible** for a call back to occur unless “each mobile station contain(s) a unique identifier.”<sup>15</sup> Even if the mobile station has a unique identifier, CTIA says that, if that identifier is also in use by another subscriber, “there is a very real likelihood that the call-back will be directed to the subscriber, who will know nothing about the 911 call.”<sup>16</sup> This is also not true. Only the caller with the correct ESN will be connected to the PSAP. SBMS argues that the Mobile Telephone Switching Office (MTSO) cannot distinguish between a MIN and a non-MIN handset. This argument simply ignores negative validation on 911 calls to allow all callers to be connected. SMBM operates MTSOs that currently have the ability to selectively route the

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inhumane or greedy as the wireless industry.

<sup>15</sup> CTIA petition, page 6. CTIA falsely states that the MIN might be duplicated by “carriers in Mexico.” Surely CTIA knows that the world numbering plan does not allow such duplication.

<sup>16</sup> CTIA petition, page 7.



originating caller to a variety of voice announcements. Arguing that non-MIN callers cannot be identified and handled is simply not true. PCIA also says that without a MIN “providing call back information *is not possible*.”<sup>17</sup> As the Alliance has shown, it *is possible* for the wireless industry to provide call back information using the substitute number system already developed by and used by the wireless industry. There are no doubt other solutions. We respectfully suggest that it is time for the wireless industry to turn its energies to meeting the public interest requirements set forth in the R&O. The apparent reluctance on the part of the wireless industry to meet with the public interest groups concerned and report back to the Commission in a constructive effort to alleviate the human suffering and cost of injuries is not understood.

***THE ALLIANCE AGREES WITH THE CTIA SUGGESTION THAT THE DEFINITION OF CODE IDENTIFICATION COULD BE APPROPRIATELY CHANGED.***

Several petitioners quarrel with the definition of “Code Identification” because identification code sent by the handset is not necessarily the MIN. Each of these petitioners offers proposed definitions. CTIA suggests that the term “Code Identification” be defined as:

“Any number used by a mobile station to identify itself to a network.”<sup>18</sup>

The Alliance agrees with this definition.

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<sup>17</sup> PCIA petition, page 6. (Emphasis added).

<sup>18</sup> Page 13 of its petition for reconsideration.

## ***THE ALLIANCE OPPOSES OTHER DEFINITION CHANGES***

The Telecommunications Industry Association (TIA) has suggested other changes in definition that appear in fact to be designed to derail the spirit and intent of the R&O. For example, TIA suggests that pseudo-ANI be redefined as a number which is not a North American Numbering Plan number. Pseudo-ANI may or may not be such a number and it makes no sense to define it one way or the other. TIA also suggests that the specific meaning of pseudo-ANI be defined pursuant to agreement. As this record well shows it is a mistake to leave anything to agreement by an industry that simply wants to stall and delay.

## ***CONCLUSION***

Each of the parties, including the Alliance, would have written the R&O differently. It is the obligation of the parties however, to submit the facts and arguments to the Commission to help compile the record. A full and complete record has been made and the Commission has rendered its decision. It is not enough to say that the Commission should have preferred all of the arguments of the wireless industry — which is what almost all of the petitions for reconsideration contend. The arguments made by some petitioners that the Commission's actions are unfounded and capricious are an affront to the Commission, the parties who participated in this proceeding and the public. The R&O clearly represents an enormous effort on the part of the Commission that went to great lengths to balance the public interests with the concerns of the industry. It is a very well reasoned and equitable decision. It provides for continuing oversight and investigation by the Commission. It provides for meetings by various

concerned parties and regular reports back to the Commission. The Alliance respectfully suggests that fine tuning can take place as contemplated by the Commission and the delay occasioned by these petitions for reconsideration should not be tolerated. It is respectfully submitted that the Commission should reject the petitions for reconsideration and direct the parties to proceed to act in the public — not self — interests without any more procrastination.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Samuel A. Simon', with a long horizontal stroke extending to the right.

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